

**FLATHEAD COUNTY PLANNING AND ZONING OFFICE
HASKILL CREEK HOLDINGS LLC ZONE CHANGE REQUEST
ZONING MAP AMENDMENT REPORT (#FZC-14-03)
APRIL 23, 2014**

A report to the Flathead County Planning Board and Board of Commissioners regarding a request by Haskill Creek Holdings LLC for a zoning map amendment in the Haskill Basin Estates Zoning District. The proposed amendment would change the zoning of the subject property from 'AG-20 Agricultural' to 'SAG-10 Suburban Agricultural.'

The Flathead County Planning Board will conduct a public hearing on the proposed zoning map amendment on May 14, 2014 in the 2nd Floor Conference Room of the Earl Bennett Building located at 1035 First Ave West in Kalispell. A recommendation from the Planning Board will be forwarded to the County Commissioners for their consideration. In accordance with Montana law, the Commissioners will hold a public hearing on the proposed zoning map amendment. Documents pertaining to the zoning map amendment are available for public inspection in the Flathead County Planning and Zoning Office located in the Earl Bennett Building at 1035 First Avenue West, in Kalispell. Prior to the Commissioner's public hearing, documents pertaining to the zoning map amendments will also be available for public inspection in the Flathead County Clerk and Records Office at 800 South Main Street in Kalispell.

I. APPLICATION REVIEW UPDATES

A. Planning Board

This space will contain an update regarding the May 14, 2014 Flathead County Planning Board review of the proposal.

B. Commission

This space will contain an update regarding the Flathead County Commissioners review of the proposal.

II. GENERAL INFORMATION

A. Application Personnel

i. Owner/Applicants

Haskill Creek Holdings LLC
58 Western Village Lane
Columbia Falls, MT 59912

ii. Technical Assistance

Sitescape Associates
c/o Bruce Lutz
385 Golf Course Drive
Columbia Falls, MT 59912

B. Subject Property Location and Legal Description

The subject property is 39.614 acres, consists of one tract and is located on East Edgewood Drive one mile east of Whitefish, approximately a quarter of a mile east of Haskill Basin Road as shown in Figure 1 below. The property can be legally described as Tract 3 in Section 27, Township 31 North, Range 21 West, P.M.M., Flathead County, Montana.

Figure 1: Subject property outlined in yellow



C. Proposed Zoning Map Amendment

The subject property is located within the Haskill Basin Estates Zoning District and is currently zoned 'AG-20 Agricultural' (see Figure 2 below). The Haskill Basin Estates Zoning District is split between the City of Whitefish's and the County's jurisdiction. The subject property is located on the edge of the County's jurisdiction.

The AG-20 designation is defined in Section 3.06 of the Flathead County Zoning Regulations (FCZR) as, '*A district to protect and preserve agricultural land for the performance of a wide range of agricultural functions. It is intended to control the scattered intrusion of uses not compatible with an agricultural environment, including, but not limited to, residential development.*'

As depicted in Figure 3 below, the applicant has requested the zoning map amendment to allow for 'SAG-10 Suburban Agricultural' zoning. The SAG-10 designation is defined in Section 3.07 FCZR as, '*A district to provide and preserve agricultural functions and to provide a buffer between urban and unlimited agricultural uses, encouraging separation of such uses in areas where potential conflict of uses will be minimized, and to provide areas of estate-type residential development.*'

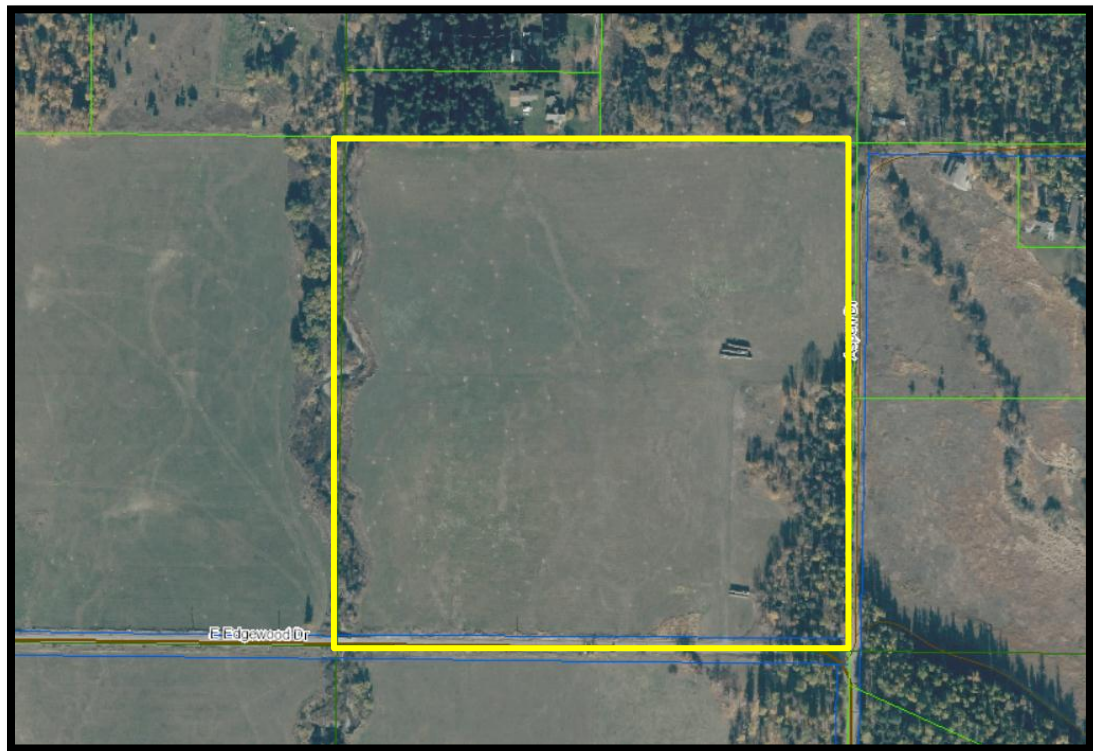
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D. General Character of and Reason for Amendment

Currently the property contains no structures with the majority of the property open space and relatively flat. Along the western edge of the property is Haskill Creek and to the north is Walker Creek. Trees are located along Haskill Creek, the north property line and the southeast corner of the property. Under current zoning the minimum lot area is 20 acres. Current conditions would prohibit the land owner from further subdividing the 39.614 acres property. With a minimum lot size of 10 acres, the proposed SAG-10 zoning, if approved, would allow the property to be subdivided into two additional lots.

According to the application the property was recently purchased by Haskill Creek Holdings LLC. The application states as one of the reasons for the proposed zone change as, “Property values in the Whitefish are have escalated to the point that large agricultural tracts have tended to transition to rural residential use when such land has gone to market.” Additionally the applicant feels, “The ultimate subdivision of the subject property into 3 parcels will surely maintain its rural character and provide good opportunities for smaller scale agricultural activities around the home-sites.”

Figure 4: Aerial view of subject property (outlined in yellow)



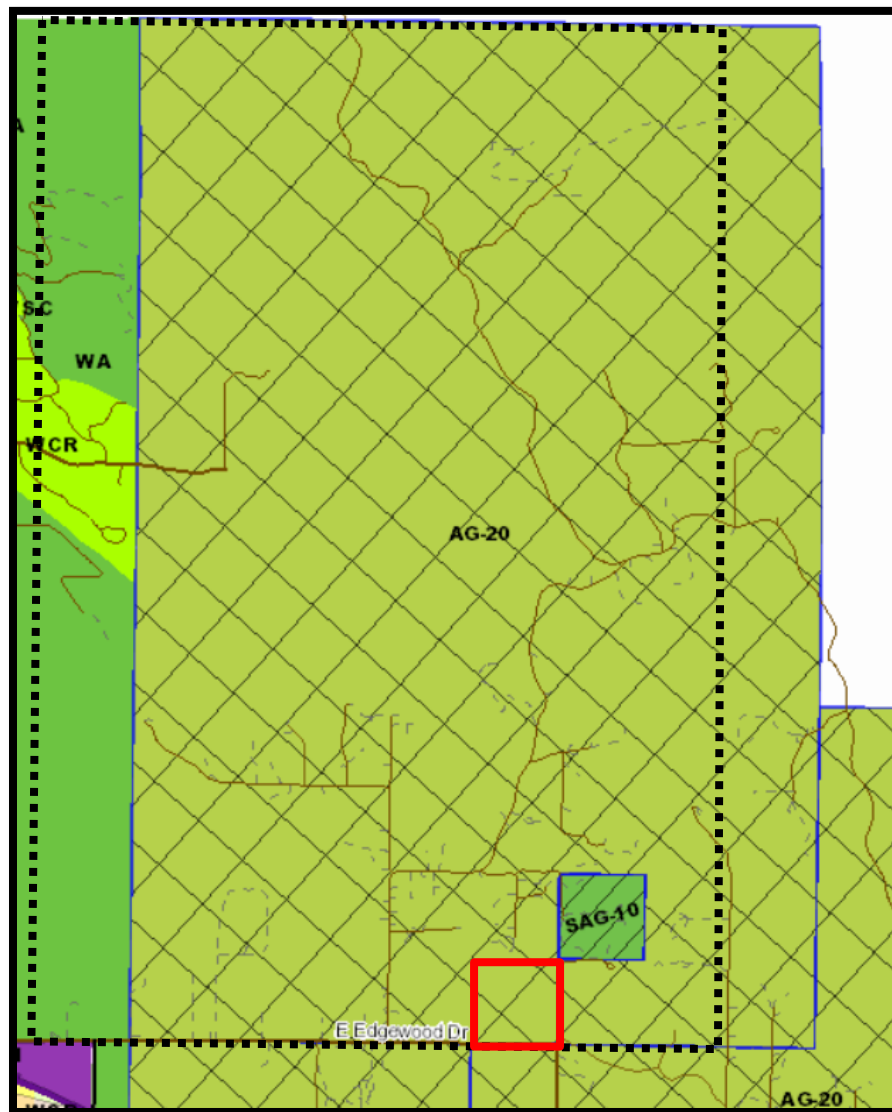
E. Adjacent Zoning and Character of the Overall Zoning District

Located within the Haskill Basin Estates Zoning District, the property is bordered by suburban agricultural and agricultural zoning (see Figure 2). Zoning on all sides of the subject property, except to the northeast, is ‘AG-20 Agricultural.’ To the northeast of the subject property is a contiguous 40 acre area zoned ‘SAG-10 Suburban Agricultural.’ The general character in the vicinity appears to be agricultural, rural residential and forest land.

A majority of the properties to the north, and east are heavily forested and do not appear to be used for agricultural purposes. Suburban agricultural lot sizes average 10.1 acres and agricultural lots generally range from 0.5 to 178.5 acres with an average lot size of 15.5 acres. Adjacent parcels to the south and west tend to be open and appear to be utilized for agriculture.

When an application appears to have the potential for spot zoning, the “three part test” established by legal precedent in the case of *Little v. Board of County Commissioners* is reviewed specific to the requested map amendment. Spot zoning is described as a provision of a general plan (i.e. Growth Policy, Neighborhood Plan or Zoning District) creating a zone which benefits one or more parcels that is different from the uses allowed on surrounding properties in the area. Below is a review of the three-part test in relation to this application.

Figure 5: Haskill Basin Estates Zoning District (outlined with dashed black line & subject property outlined in red)



i. The Zoning Allows A Use That Differs Significantly From The Prevailing Use In The Area.

The intent of the existing 'AG-20 Agricultural' zone is to protect and preserve agricultural land for the performance of a wide range of agricultural functions. The purpose of the proposed 'SAG-10 Suburban Agricultural' zone is to provide and preserve agricultural functions and provide a buffer between urban and unlimited agricultural uses. Both the proposed SAG-10 and existing AG-20 allow for a range of agricultural uses.

The character of the overall zoning district is agricultural and forest land with some rural residential. The proposed zoning map amendment, if approved, would allow for uses that are typical of suburban agricultural zoning districts and similar to uses that are allowed under the zoning on neighboring properties. The properties directly to the northeast of the subject property are all currently zoned SAG-10. The proposed zoning would allow uses that do not differ from the prevailing uses in the adjacent SAG-10 zone.

ii. The Zoning Applies To A Small Area Or Benefits A Small Number Of Separate Landowners.

The Haskill Basin Estates Zoning District is split between the City of Whitefish's and the County's jurisdiction and about two-thirds of the district is within the County's jurisdiction. Using standard ArcGIS software staff determined that the subject property is located within an AG-20 zoning district, which is split between the two jurisdictions. The AG-20 district in the counties jurisdiction is approximately 2,521.1 acres in size and within the City of Whitefish's jurisdiction it is approximately 1,286.5 acres. Northeast of the subject property is a SAG-10 zoning district which is approximately 40.5 acres in size. The property would connect and enlarge the existing SAG-10 zone, the total of which would be approximately 80.114 acres. Even though the property is only 39.614 acres and applies to one land owner, the zone change would expand the existing SAG-10 designation currently northeast of the subject property.

iii. The Zoning Is Designed To Benefit Only One Or A Few Landowners At The Expense Of The Surrounding Landowners Or The General Public And, Thus, Is In The Nature Of Special Legislation.

The subject property is currently owned by a single landowner however, to the northeast is a contiguous 40 acre area zoned SAG-10. This proposed zone change would allow for the same uses that are currently permitted and currently exist in the adjacent SAG-10 zoning and therefore the proposed zoning map amendment would not be at the expense of the surrounding landowners or the general public and thus is not special legislation.

In summary, all three criteria must be met for the application to potentially be considered spot zoning. The proposed zoning map amendment does not appear to be at risk of spot zoning, as it does not appear to meet all three of the criteria.

Finding #1: The proposed zoning map amendment does not appear to constitute spot zoning because the adjacent properties to the northeast are similarly zoned SAG-10

and this proposed zone change would allow for the same uses that are currently permitted and currently exist in the adjacent SAG-10.

F. Public Services and Facilities

Sewer:	N/A
Water:	N/A
Electricity:	Flathead Electric Cooperative
Natural Gas:	Northwestern Energy
Telephone:	CenturyTel
Schools:	Whitefish School District Whitefish High School District
Fire:	Whitefish Rural Fire District
Police:	Flathead County Sheriff's Office

G. Criteria Used for Evaluation of Proposed Amendment

Map amendments to zoning districts are processed in accordance with Section 2.08 of the Flathead County Zoning Regulations. The criteria for reviewing amendments are found in Section 2.08.040 of the Flathead County Zoning Regulations and 76-2-203 M.C.A.

H. Compliance With Public Notice Requirements

Adjacent property notification regarding the proposed zoning map amendment was mailed to property owners within 150 feet of the subject property on April 21, 2014. Legal notice of the Planning Board public hearing on this application was published in the April 27, 2014 edition of the Daily Interlake.

Public notice of the Board of County Commissioners public hearing regarding the zoning map amendment will be physically posted on the subject property and within the zoning district according to statutory requirements found in Section 76-2-205 [M.C.A.]. Notice will also be published once a week for two weeks prior to the public hearing in the legal section of the Daily Interlake. All methods of public notice will include information on the general character of the proposed change, and the date, time, and location of the public hearing before the Flathead County Commissioners on the requested zoning map amendment.

I. Agency Referrals

Referrals were sent to the following agencies on March 13, 2014:

- Bonneville Power Administration
 - Reason: BPA has requested that anytime agency referrals are sent they receive a copy.
- Montana Fish, Wildlife, and Parks
 - Reason: Increased development as a result of the zoning map amendment may impact wildlife in the area.
- Flathead City-County Health Department; Environmental Health Services
 - Reason: Increased development as a result of the zoning map amendment may necessitate review by the Department.

- Flathead County Public Works/Flathead County Road Department
 - Reason: The zone change request has the potential to impact County infrastructure.
- Flathead County Sheriff
 - Reason: Potential development resulting from the proposed zoning map amendment could have an impact on existing services.
- Flathead County Solid Waste
 - Reason: The type and amount of solid waste resulting from uses permitted within the proposed zone change could have an impact on existing public services.
- Flathead County Weeds and Parks Department
 - Reason: Potential development resulting from the proposed zoning map amendment could have an impact on existing public services.
- Whitefish County Water and Sewer
 - The subject property is located within the jurisdiction of the local water and sewer district and increased development as a result of the zoning map amendment could impact the level of service available.
- City of Whitefish, Planning Department
 - Reason: The subject property is located near the City of Whitefish.
- Whitefish School District
 - Reason: Potential development resulting from the proposed zoning map amendment could have an impact on existing school services.
- Whitefish Rural Fire District
 - Reason: The subject property is located within the jurisdiction of the local fire district and increased development as a result of the zoning map amendment could impact the level of service available.

III. COMMENTS RECEIVED

A. Public Comments

As of the date of the completion of this staff report, no public comments have been received regarding the requested zoning map amendment. It is anticipated any member of the public wishing to provide comment on the proposed zoning map amendment may do so at the Planning Board public hearing scheduled for May 14, 2014 and/or the Commissioner's public hearing. Any written comments received following the completion of this report will be provided to members of the Planning Board and Board of Commissioners and summarized during the public hearing(s).

B. Agency Comments

The following is a summarized list of agency comment received as of the date of the completion of this staff report:

- Bonneville Power Administration
 - Comment: "In reviewing the proposed plan, it appears this request will not affect any BPA facilities located within this area. BPA does not have any objections to the approval of this request at this time." Email received 3/18/14.

- Flathead City-County Health Department
 - Comment #1: “1. The proposed development may require further sanitation review. The property owners are requesting the zone change in order to further subdivide the property. Further subdivision of the property, creating parcels less than 20 acres, would require subdivision review through the Sanitations in Subdivisions Act and compliance with Montana Department of Environmental Quality subdivision rules and regulations as well as the Flathead County Sewage Treatment System Regulations. 2. This general area has seasonally high ground water in areas. Groundwater monitoring must be conducted during the spring of the year to determine the shallowest depth before the property can be subdivided. A four (4) foot separation must be maintained between the infiltrative trench of a wastewater disposal system and the shallowest groundwater.” Letter dated 3/17/14.
 - Comment #2: “Groundwater monitoring commenced on March 14, 2014. On April 3, 2014, personnel from this office conducted a site visit and conducted a groundwater monitoring verification check. Five (5) monitoring pipes were installed and all pipes failed during this check. Perched groundwater on this property appears to be between 0-18” inches which exceeds 48” required by Flathead County Sewage Treatment System Regulations and Montana Department of Environmental Quality. Therefore, at this time the Department cannot support development of the property with any dwelling or occupied structure which is required to be equipped with facilities for the sanitary disposal of sewage.” Letter dated 4/29/14
- Flathead County Weed, Parks and Recreation
 - Comment: “It is the landowners’ responsibility to control noxious weeds on their land – MCA Section 7-22-2116. A noxious weed is legally defined as ‘any exotic plant species that may render land unfit for agriculture, forestry, livestock, wildlife or other beneficial uses, or that may harm native plant communities.’ Most noxious weeds thrive when soil is disturbed. Some can grow from root parts, as well as seeds that become exposed. [...]” Letter dated 3/20/14.
- Whitefish Fire Department
 - Comment: “The Whitefish Fire Department has no issues with the proposed zone change from AG-20 to SAG-10.” Email received 3/18/14.
- Flathead County Road & Bridge Department
 - Comment: “At this point the County Road Department does not have any comments on this request.” Letter dated 3/18/14.

IV. EVALUATION OF PROPOSED AMENDMENT

A. Build Out Analysis

Once a specific zoning designation is applied in a certain area, landowners have land uses that are allowed by-right. A build-out analysis is performed to examine the maximum potential impacts of full build-out of those by-right uses. It is typically done looking at maximum densities, permitted uses, and demands on public services and facilities. Build-out analyses are objective and are not best or worst case scenarios. Without a build-out analysis to establish a foundation of understanding, there is no way to estimate the meaning of the proposed change to neighbors, the environment, future demands for public services and facilities and any of the evaluation criteria, such as impact to transportation systems. Build-out analyses are simply establishing the meaning of the zoning map amendment to the future of the community to allow for the best possible review.

i. Current Zoning

The proposed zoning map amendment would change the zoning designation on the subject property from 'AG-20 Agricultural.' AG-20 is defined in Section 3.06.010 FCZR as, *'A district to protect and preserve agricultural land for the performance of a wide range of agricultural functions. It is intended to control the scattered intrusion of uses not compatible with an agricultural environment, including, but not limited to, residential development.'* The following is a list of permitted uses in an 'AG-20 Agricultural' zone:

1. Agricultural/horticultural/silvicultural use.
2. Cellular tower.
3. Class A and Class B manufactured home.
4. Cluster housing.
5. Dairy products processing, bottling, and distribution.
6. Day care home.
7. Dwelling, single-family.
8. Guest house.
9. Fish hatchery.
10. Home occupation.
11. Homeowners park and beaches.
12. Kennel.
13. Nursery, landscaping materials.
14. Park.
15. Produce stand.
16. Public transportation shelter station.
17. Public utility service installation.
18. Ranch employee housing.
19. Stable, riding academy, rodeo arena.

The following uses are listed as conditional uses in an 'AG-20 Agricultural' zone. An asterisk designates conditional uses that may be reviewed administratively:

1. Airport.
2. Animal Farm
3. Animal hospital, veterinary clinic.

4. Bed and breakfast establishment.
5. Camp and retreat center.
6. Caretaker's facility.*
7. Cemetery, mausoleum, columbarium, crematorium.
8. Church and other place of worship.
9. Communication tower/mast.
10. Community center building operated by a non-profit agency.
11. Contractor's storage yard.*
12. Dwelling, family hardship.*
13. Electrical distribution station.
14. Extractive industry.
15. Feed and seed processing and cleaning.
16. Feed lot: cattle, swine, poultry.
17. Radio and television broadcast studio.
18. Recreational facility, low-impact.
19. School, primary and secondary.
20. Temporary building or structure.*
21. Water and sewage treatment plant.
22. Water storage facility.

The bulk and dimensional requirements in the AG-20 zoning requires a setback for the principal structure from boundary lines of 20 feet from the front, rear, side and side-corner. The minimum setback requirement for accessory structures is 20 feet for the front and side-corner and 5 feet from the rear and side. Additionally there are provisions for reduced setbacks for non-conforming lots when the width of the lot is less than 200 feet, 150 feet or 50 feet. A 20 foot setback is required from streams, rivers and unprotected lakes which do not serve as property boundaries and an additional 20 foot setback is required from county roads classified as collector or major/minor arterials.

The maximum allowable building height is 35 feet for all structures and the permitted lot coverage is 20%. The subject property is approximately 39.614 acres and a minimum lot area of 20 acres is allowed under the current AG-20 zoning. The property cannot be subdivided further under the current zoning.

ii. Proposed Zoning

As previously stated, the applicant is proposing SAG-10 is defined in Section 3.07.010 FCZR as, "*A district to provide and preserve agricultural functions and to provide a buffer between urban and unlimited agricultural uses, encouraging separation of such uses in areas where potential conflict of uses will be minimized, and to provide areas of estate-type residential development.*" The following is a list of permitted uses in an SAG-10 zone:

1. Agricultural/horticultural/silvicultural use.
2. Cellular tower.
3. Class A and Class B manufactured home.
4. Cluster housing.
5. Dairy products processing, bottling, and distribution.
6. Day care home.

7. Dwelling, single-family.
8. Guest house.
9. Home occupation.
10. Homeowners park and beaches.
11. Nursery, landscaping materials.
12. Park and publicly owned recreational facility.
13. Produce stand.
14. Public transportation shelter station.
15. Public utility service installation.
16. Ranch employee housing.
17. Stable, riding academy, rodeo arena.

The following uses are listed as conditional uses in an SAG-10 zone. An asterisk designates conditional uses that may be reviewed administratively:

1. Airfield.
2. Aircraft hangars when in association with properties within or adjoining an airport/landing field.*
3. Animal hospital, veterinary clinic.
4. Bed and breakfast establishment.
5. Camp and retreat center.
6. Caretaker's facility.*
7. Cemetery, mausoleum, columbarium, crematorium.
8. Church and other place of worship.
9. Community center building operated by a non-profit agency.
10. Community residential facility.**
11. Contractor's storage yard.*
12. Dwelling, family hardship.*
13. Electrical distribution station.
14. Extractive industry.
15. Golf course.
16. Golf driving range.
17. Kennel, commercial.*
18. Manufactured home park.
19. Recreational facility, low-impact.
20. School, primary and secondary.
21. Temporary building or structure.*
22. Water and sewage treatment plant.
23. Water storage facility.

The bulk and dimensional standards under SAG-10 zoning requires a setback from the boundary line of 20 feet for the front, rear, side and side-corner yards for the principal structure. The minimum setback requirement for accessory structures is 20 feet for the front and side-corner yards and 5 feet from the rear and side yards. There are also provisions for reduced setbacks for non-conforming lots when the width of the lot is less than 200 feet, 150 feet or 50 feet. A 20 foot setback is required from streams, rivers and unprotected lakes which do

not serve as property boundaries and an additional 20 foot setback is required from county roads classified as collector or major/minor arterials.

The subject property totals 39.614 acres and the proposed SAG-10 zoning requires a minimum lot area of 10 acres. Under the proposed SAG-10 zoning two additional lots could be created.

In summary, the requested zone change from AG-20 to SAG-10 has the potential to increase density, by allowing two additional lots through subsequent divisions. The bulk and dimensional requirements are the same in AG-20 and SAG-10. The zoning map amendment would allow for uses that are slightly different from the existing AG-20 but does allow for the same uses as the neighboring SAG-10 zoning.

B. Evaluation of Proposed Amendment Based on Statutory Criteria (76-2-203 M.C.A. and Section 2.08.040 Flathead County Zoning Regulations)

i. Whether the proposed map amendment is made in accordance with the Growth Policy/Neighborhood Plan.

The proposed zoning map amendment falls within the jurisdiction of the Flathead County Growth Policy, adopted on March 19, 2007 (Resolution #2015 A) and updated October 12, 2012 (Resolution #2015 R). Additionally the property is located within the Whitefish City-County Master Plan 2020, adopted on February 6, 1996 by the Flathead County Commissioners (Resolution #677-G) and the City of Whitefish on February 20, 1996 (Resolution #96-3).

1. Flathead County Growth Policy

The Flathead County Growth Policy Designated Land Uses Map identifies the subject property as ‘Agricultural.’ The proposed Suburban Agricultural zoning classification would appear to contrast with the current Agricultural designation. However, Chapter 10 Part 3: Land Uses Maps of the Growth Policy under the heading Designated Land Use Maps specifically states, *“This map depicts areas of Flathead County that are legally designated for particular use. This is a map which depicts existing conditions. The areas include zoning districts which are lumped together by general use rather than each specific zone and neighborhood plan. Further information on particular land uses in these areas can be obtained by consulting the appropriate zoning regulations or neighborhood plan document. The uses depicted are consistent with the existing regulations and individual plan documents. This map may be changed from time to time to reflect additional zoning districts, changes in zoning districts, map changes and neighborhood plans as they are adopted. Since this map is for informational purposes, the Planning Staff may update the same to conform to changes without the necessity of a separate resolution changing this map.”* Therefore, staff interprets this to mean the Designated Land Use Map is not a future land use map that implements policies, but rather a reflection of historic zoning categories. If the zoning map amendment is approved the Designated Land Use Map can be updated by staff to reflect changes made by the County Commissioners based on policies, rather than maps in the document.

Following is a consideration of goals and policies which appear to be applicable to the proposed zone change, to determine if the proposal complies with the Growth Policy:

- ❖ **G.2** – *Preserve the rights of property owners to the use, enjoyment and value of their property and protect the same rights for all property owners.*
 - The proposed zone change would preserve the right of the property owner to divide the property.
- **P.3.5** – *Identify reasonable densities for remote, rural development that do not strain the provision of services or create a public health or safety hazard.*
 - There appears to be limitations regarding on-site sewage disposal systems on the subject property based on comments received from Environmental Health and 1960 Soil Survey. Comments from the Environmental Health Department indicate that during groundwater monitoring, five test holes failed in April 2014 due to shallow groundwater. The majority of the property contains Class IIIw-1 and Class Vw-1 soils. Class IIIw-1 is limited by seasonal excess water, moderately wet and drainage generally lacking soils and Class Vw-1 is poorly drained soils. Future development on the property could create a public health and safety hazard.
- ❖ **G.4** – *Preserve and protect the right to farm and harvest as well as the custom, culture, environmental benefits and character of agriculture and forestry in Flathead County while allowing existing landowners flexibility of land uses.*
 - The SAG-10 designation allows for agriculture and silviculture while providing the land owner with more flexibility with minimum lot area.
- ❖ **G.8** – *Safe, healthy residential land use densities that preserve the character of Flathead County, protect the rights of landowners to develop land, protect the health, safety, and welfare of neighbors and efficiently provide local services.*
 - There appears to be limitations regarding on-site sewage disposal systems on the subject property based on comments received from Environmental Health and 1960 Soil Survey. Comments from the Environmental Health Department indicate that during groundwater monitoring, five test holes failed in April 2014 due to shallow groundwater. The majority of the property contains Class IIIw-1 and Class Vw-1 soils. Class IIIw-1 is limited by seasonal excess water, moderately wet and drainage generally lacking soils and Class Vw-1 is poorly drained soils, muck and peat. Future development on the property could create a public health and safety hazard.

- **P.10.2** – *Discourage development within the 100-year floodplain that displaces floodwaters to neighboring properties.*
 - According to FEMA FIRM Panel 30029C1095G, the subject property is located primarily in a Zone X, an area determined to be outside the 0.2% annual chance floodplain. The western boundary and northeast corner of the property appear to be located within an area designated as Zone A, an area of 1.0% annual chance flood. The application states, “The riparian, wetland and flood plain areas of the site will be set aside as undisturbed conservation zones as part of the development plan.” The minimum lot size in the SAG-10 zone is 10 acres which would allow for sufficient buildable area outside the 100-year floodplain. If the property is subdivided in the future the riparian, wetland, and floodplain could be designated as no build zones.
- **P.10.5** – *Protect wetlands and riparian areas.*
 - The application states, “The riparian, wetland and flood plain areas of the site will be set aside as undisturbed conservation zones as part of the development plan.” As previously stated, the minimum lot size in the SAG-10 zone is 10 acres which would allow for sufficient buildable area outside the riparian areas. Additionally, the proposed SAG-10 would require the same setback from streams, rivers and unprotected lakes, as the existing AG-20.
- ❖ **G.31** – *Growth that does not place unreasonable burden on the school district to provide quality education.*
 - No comments were received from the Whitefish High School District and Whitefish School District therefore it appears the proposal would not adversely impact area school districts.
- ❖ **G.32** – *Maintain consistently high level of fire, ambulance and emergency 911 response services in Flathead County as growth occurs.*
- ❖ **G.33** – *Maintain a consistently high level of law enforcement services in Flathead County as growth occurs.*
 - This report contains discussion on the adequacy of emergency service in Section B.ii.1 and B.ii.2 below.
- ❖ **G.38** – *Preserve and protect floodplains to ensure the safety of residents from flood hazards and to prevent the degradation of water quality and critical wildlife habitat.*
 - Comments from the Environmental Health Department indicate that during groundwater monitoring, five test holes failed in April 2014 due to shallow groundwater. The majority of the property contains Class IIIw-1 and Class Vw-1 soils. Class IIIw-1 is limited by seasonal excess water, moderately wet and drainage generally lacking soils and Class Vw-1 is poorly

drained soils, muck and peat. Future development on the property could create a degradation of water quality.

❖ **G.39** – *Preserve and protect wetlands and riparian areas to prevent degradation of natural resources, including but not limited to water quality and critical habitat.*

- As previously stated, the subject property is located primarily in an area designated as Zone X, and an area designated as Zone A, an area of 1.0% annual chance flood. The application states, “The riparian, wetland and flood plain areas of the site will be set aside as undisturbed conservation zones as part of the development plan.” Comments from the Environmental Health Department indicate that during groundwater monitoring, five test holes failed in April 2014 due to shallow groundwater. Hydric soils exist on the subject property as the majority of the property contains Class IIIw-1 and Class Vw-1 soils. Class IIIw-1 is limited by seasonal excess water, moderately wet and drainage generally lacking soils and Class Vw-1 is poorly drained soils. Future development on the property could create a degradation of water quality.

❖ **G.46** – *Honor the integrity and purpose of existing neighborhood plans, respecting the time, effort and community involvement that has taken place.*

- This report contains discussion regarding the existing Whitefish City-County Master Plan in Section B.i.2 below.

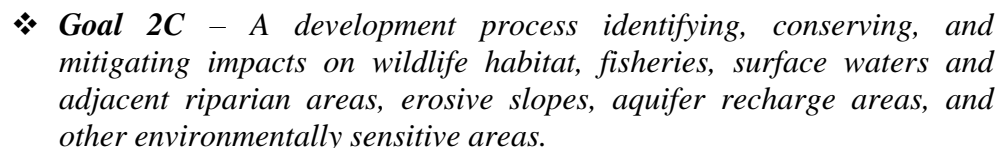
Finding #2: The proposed zoning map amendment does not comply with the Flathead County Growth Policy applicable goals, policies and text because hydric soils exist on the subject property, and comments from the Environmental Health Department indicate that during groundwater monitoring five test holes failed in April 2014 due to shallow groundwater, which means future development on the property may not be possible and therefore this location may not be appropriate for higher density.

2. Whitefish City-County Master Plan

The Master Plan serves as a localized planning tool for the area surrounding the City of Whitefish, and the Master Plan was incorporated into the Growth Policy, as a neighborhood plan, to provide more specific guidance on future development and land use decisions within the plan area at the local level. The Whitefish City-County Master Plan (Master Plan) is composed of two major components, the text and the Master Plan Map. According to the introduction on page 3 of the Master Plan, “both the text and the map are equally important and must be equally weighed.”

The Whitefish City-County Master Plan Map identifies the subject property as ‘Limited Rural Residential’ and ‘Sensitive Area’ (as shown in Figure 6 below). The proposed SAG-10 zoning classification appears to contrast with the ‘Limited Rural Residential’ designation because Policy 8.12(c)(1) of the

Figure 6: Whitefish City-County Master Plan Map Year 2020 (property outlined in red)



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to shallow groundwater. Additionally, the majority of the property contains Class IIIw-1 and Class Vw-1 soils both of which are poorly drained. Development on the subject property could impact environmentally sensitive areas.

- ***Policy 2.1*** – *Minimize development density on environmentally sensitive lands and critical wildlife habitat.*
 - The applicant states, the subject property is located within a ‘Limited Rural Residential’ and ‘Sensitive Areas’ designation on the Map in the Whitefish City-County Master Plan – Year 2020. The latter designation is logical by virtue of the property’s location between Haskill Creek and Walker Creek.”
- ❖ ***Goal 3B*** – *A development process identifying, avoiding, and mitigating natural hazards from wildfire, floodplain, steep slopes, groundwater, and soil limitations.*
 - ***Policy 3.5*** – *Conserve the one hundred year floodplain in its natural state as open space, recreational area, or agriculture, and work to eliminate existing non-conforming uses.*
 - The application states, “The riparian, wetland and flood plain areas of the site will be set aside as undisturbed conservation zones as part of the development plan.” According to FEMA FIRM Panel 30029C1095G, the subject property is located primarily in a Zone X, an area determined to be outside the 0.2% annual chance floodplain. The western boundary and northeast corner of the property appear to be located within an area designated as Zone A, an area of 1.0% annual chance flood.
 - ***Policy 3.6*** – *Apply and enforce the Fire Protection Guidelines for Wildland Residential Interface Development adopted by the Montana Department of State Lands, including defensible space, road access, water supply, building materials, and building density and spacing.*
 - This report contains discussion on the safety from fire in Section B.ii.1 below.
- ❖ ***Goal 4A*** – *Maximum protection, preservation, and restoration of lakes, rivers, and streams.*
 - ***Policy 4.1*** – *To the greatest extent possible, lakes, rivers, and streams and their banks shall be preserved in their natural condition.*
 - ***Policy 4.4*** – *The banks and adjacent areas of all rivers and streams shall be preserved as permanent greenbelt in a natural state: b. Smaller free-flowing rivers and streams shall incorporate a green belt of not less than 50-foot width on each side and extending to include any wetlands and steep or erosive banks.*
 - The existing AG-20 zoning requires a setback of 20 feet from streams, rivers and unprotected lakes which do not serve as

property boundaries, the proposed SAG-10 would require the same setback from streams, rivers and unprotected lakes, and therefore would not change.

- ❖ **Goal 5A** – *Decent and safe living environments for low, medium and high density housing.*
 - This proposed zone change would allow for additional low density housing.
- ❖ **Goal 5B** – *An adequate supply and mix of housing options in terms of cost, location, type and design, to meet the needs of present and future residents.*
 - This proposed zoning would allow for additional housing and has the potential to add to the supply and mix of rural housing options in terms of cost, location, type and design, to meet the needs of present and future residents.
- ❖ **Goal 5D** – *Residential development that takes advantage of the uniqueness and beauty of Whitefish Lake, Whitefish River, Big Mountain, agricultural lands, and open space without adversely impacting these natural resources.*
 - As previously stated, the existing AG-20 zoning requires a setback of 20 feet from streams, rivers and unprotected lakes which do not serve as property boundaries, the proposed SAG-10 would require the same setback from streams, rivers and unprotected lakes, while continuing to allow for agricultural use.
- ❖ **Goal 5G** – *Residential development which does not excessively burden the local government and is adequately served by public facilities and services.*
 - Extensions of sewer lines may be necessary for development on the property because there appears to be limitations regarding on-site sewage disposal systems based on comments received from Environmental Health and 1960 Soil Survey. Comments from the Environmental Health Department indicate that during groundwater monitoring, five test holes failed in April 2014 due to shallow groundwater. The majority of the property contains Class IIIw-1 and Class Vw-1 soil. Class IIIw-1 is limited by seasonal excess water, moderately wet and drainage generally lacking soils and Class Vw-1 is poorly drained soils, muck and peat. The applicant could choose to extend public sewer lines, located approximately 2 miles west of the property on Edgewood Drive.
- **Policy 5.3** – *All residential areas shall be served by suitable public roads and the basic emergency services such as fire, police and ambulance.*
 - The subject property is located on a paved County collector, and is serviced by the Whitefish Rural Fire Department, the Flathead

County Sheriff's Office and is located approximately 4.8 road miles from the North Valley Hospital, roads and services are available to the subject property.

- ***Policy 5.9*** – *Conserve open space within the City as well as in rural areas.*
 - The SAG-10 designation allows for large lots and it is likely that a majority of the lot will remain open space at full build-out.
- ❖ ***Goal 8B*** – *Conserve agricultural lands by allowing their limited conversion only if those are not productive or are needed for proper urban expansion.*
 - The proposed SAG-10 designation would continue to allow for agricultural uses.
- ***Policy 8.3*** – *Growth shall be directed to already established urban areas which are not environmentally sensitive or productive agricultural lands.*
 - This proposed map amendment would allow for growth in an area designated as 'Sensitive Area' and is not in an already established urban area.
- ***Policy 8.4*** – *Extending municipal services and roads into agricultural lands which would result in the premature development of such areas shall be avoided.*
 - Extensions of sewer lines may be necessary for development on the property because there appears to be limitations regarding on-site sewage disposal systems based on comments received from Environmental Health and 1960 Soil Survey. Comments from the Environmental Health Department indicate that during groundwater monitoring, five test holes failed in April 2014 due to shallow groundwater. The majority of the property contains Class IIIw-1 and Class Vw-1 soil. Class IIIw-1 is limited by seasonal excess water, moderately wet and drainage generally lacking soils and Class Vw-1 is poorly drained soils, muck and peat. The applicant could choose to extend public sewer lines, located approximately 2 miles west of the property on Edgewood Drive.
- ***Policy 8.8*** – *Avoid the use of large-lot, zoning techniques in important, productive farmland areas that have the result of creating lots too small to conventionally farm yet too large to domestically maintain. Avoid creation of tracts of two to ten acres.*
 - The subject property is not classified as important farm lands by the Master Plan map.

'Limited Rural Residential'

- The applicant states, "The existing more aggressive pattern of development in the surrounding area calls to question the relevance of the WFGGMP (WFCCMP) 2020 map specifically

and the text when considering land use decisions regarding the subject parcel.” The Master Plan was adopted by the County in 1996, and since the time of adoption a zone change from AG-20 to SAG-10 was approved on the neighboring property.

- ***Policy 8.12(c)(1) – Residential density of one dwelling unit per 20 acres.***
 - The proposed zoning would allow for a minimum lot size of 10 acres.
- ***Policy 8.12(c)(3) – This designation is intended to provide lands for limited development which avoids inefficient and inadequate provision of public services and infrastructure and densities incompatible with the surrounding area.***
 - The application states, “The applicants zone amendment request does not propose residential “densities incompatible with the surrounding area.”” The applicant is not proposing public water and sewer as the nearest municipal water and sewer services are approximately 2 miles west of the subject property on Edgewood Drive. There appears to be limitations regarding on-site sewage disposal systems on the subject property based on comments received from Environmental Health and 1960 Soil Survey. Comments from the Environmental Health Department indicate that during groundwater monitoring, five test holes failed in April 2014 due to shallow groundwater. The majority of the property contains Class IIIw-1 and Class Vw-1 soil. Class IIIw-1 is limited by seasonal excess water, moderately wet and drainage generally lacking soils and Class Vw-1 is poorly drained soils, muck and peat.
- ***Policy 8.12(c)(4) – Avoid extension of sewer and water utilities into these areas, in order to prevent premature development.***
 - The applicant is not proposing public water and sewer as the nearest municipal water and sewer services are approximately 2 miles west of the subject property on Edgewood Drive. There appears to be limitations regarding on-site sewage disposal systems on the subject property based on comments received from Environmental Health and 1960 Soil Survey. Comments from the Environmental Health Department indicate that during groundwater monitoring, five test holes failed in April 2014 due to shallow groundwater. The majority of the property contains Class IIIw-1 and Class Vw-1 soil. Class IIIw-1 is limited by seasonal excess water, moderately wet and drainage generally lacking soils and Class Vw-1 is poorly drained soils, muck and peat. Extensions of sewer lines may be necessary for development on the property.

‘Sensitive Area’

- **Policy 8.12(e)(1)** – *This designation is not intended to prohibit development but to limit density and development in order to avoid or mitigate environmental impacts.*
 - According to the application, “The applicant will employ extensive groundwater monitoring and septic suitability testing prior to submittal of a preliminary plat on the subject property. In addition, the riparian, wetland, and flood plain areas on the site will be set aside as undisturbed conservation zones as part of the development.” Comments from the Environmental Health Department indicate that during groundwater monitoring, five test holes failed in April 2014 due to shallow groundwater. The majority of the property contains Class IIIw-1 and Class Vw-1 soil. Class IIIw-1 is limited by seasonal excess water, moderately wet and drainage generally lacking soils and Class Vw-1 is poorly drained soils, muck and peat. Increasing the density and development potential of the property could cause environmental impacts
- **Policy 8.12(e)(2)** – *Land uses should be limited to those that need to be located in the specific type of area and that avoid or mitigate adverse environmental impacts*
- **Policy 8.12(e)(3)** – *This designation is characterized by shoreline areas, wetlands or lands with hydric soils, critical wildlife habitat, or other lands representing significant environmental values.*
- **Policy 8.12(e)(4)** – *This designation is intended to preserve and protect water quality, fragile or significant environmental resources, and critical wildlife habitat.*
- **Policy 8.12(e)(7)** – *Numerous shoreline areas of lakes, rivers, and streams, and adjacent areas of hydric soils and wetlands are identified as sensitive lands on the Plan Map and their protection is critical to long-term regional water quality.*
- **Policy 8.12(e)(9)** – *A large area of hydric soils and wetlands is identified as sensitive area on the Plan Map at the base of the Whitefish Range, east of Whitefish and generally north of the railroad, including the Murdock conservation easement.*
 - The application states, “The riparian, wetland and flood plain areas of the site will be set aside as undisturbed conservation zones as part of the development plan.” There appears to be limitations regarding on-site sewage disposal systems on the subject property based on comments received from Environmental Health and 1960 Soil Survey. Comments from the Environmental Health Department indicate that during groundwater monitoring, five test holes failed in April 2014 due to shallow groundwater. The majority of the property contains Class IIIw-1 and Class Vw-1 soil. Class IIIw-1 is limited by seasonal excess water, moderately wet and drainage generally

lacking soils and Class Vw-1 is poorly drained soils, muck and peat. A septic system placed on the property could create issues with the hydric soils.

The proposed zoning map amendment does not appear to comply with the Master Plan map however the proposed zoning map amendment is supported by many of the goals and policies of the Master Plan.

Finding #3: The proposed zoning map amendment from AG-20 to SAG-10 does not appear to comply with the Whitefish City-County Master Plan Map Year 2020 because the proposed zoning classification is not compatible with the future land use map designation of ‘Limited Rural Residential’ because the proposal would allow would allow for a minimum lot size of 10 acres.

Finding #4: The proposed zoning map amendment does not appear to comply with the overall goals and policies of the Master Plan because it would allow for growth in an area designated as ‘Sensitive Area,’ the subject property has riparian area, is partially in the floodplain, hydric soils exist on the subject property, and comments from the Environmental Health Department indicate that during groundwater monitoring five test holes failed in April 2014 due to shallow groundwater, which means future development on the property could create a public health and safety hazard and therefore this location may not be appropriate for higher density.

ii. **Whether the proposed map amendment is designed to:**

1. **Secure safety from fire and other dangers;**

Access to the property is via Edgewood Drive and Aspen Drive. Edgewood Drive is a paved two lane County collector within a 60 foot easement and appears adequate to provide ingress and egress for emergency services. Aspen Drive is a private gravel road within a 30 foot wide easement that could provide emergency access to the subject property. Additionally the applicant states, “An interior road accessing the future home-sites will be paved.”

The subject property is designated as Medium High by the County Wide Priority Area, is located in the Wildland Urban Interface, and a Fire District Priority Area. The proposed map amendment has the potential to add two houses into the WUI. According to the application, “Due to the open nature of the property, defensible space is already inherently present for the future home-sites.” Staff confirmed, during the site visit, that the property is primarily an open field with trees located along the west and north side of the property and in the southeast corner.

The subject property is located within the Whitefish Fire District and the nearest fire and emergency response center is located approximately 4.0 miles west of the property on Flathead Avenue. The Whitefish Rural Fire Department would respond in the event of a fire or medical emergency. “The Whitefish Fire Department has no issues with the proposed zone change from AG-20 to SAG-10.” Therefore, the proposal appears to secure safety from fire.

According to FEMA FIRM Panel 30029C1095G, the subject property is located primarily in a Zone X, an area determined to be outside the 0.2% annual chance floodplain. The western boundary and northeast corner of the property appear to be located within an area designated as Zone A, an area of 1.0% annual chance flood.

The property is located between Haskill Creek and Walker Creek, so there is riparian area along the western edge and northeast corner of the property. The applicant states, "In addition, the riparian, wetland, and flood plain areas on the site will be set aside as undisturbed conservation zones as part of the development." If the property is subdivided in the future the riparian, wetland, and floodplain could be designated as no build zones. The minimum lot size in the SAG-10 zone is 10 acres would allow for sufficient buildable area outside the riparian areas and floodplain. Additionally, the proposed SAG-10 would require the same setback from streams, rivers and unprotected lakes, as the existing AG-20.

Comments from the Environmental Health state, "Groundwater monitoring commenced on March 14, 2014. On April 3, 2014, personnel from this office conducted a site visit and conducted a groundwater monitoring verification check. Five (5) monitoring pipes were installed and all pipes failed during this check. Perched groundwater on this property appears to be between 0-18" inches which exceeds 48" required by Flathead County Sewage Treatment System Regulations and Montana Department of Environmental Quality. Therefore, at this time the Department cannot support development of the property with any dwelling or occupied structure which is required to be equipped with facilities for the sanitary disposal of sewage."

After receiving comments from the Environmental Health Department, staff conducted further research regarding the groundwater concerns. According to the 1960 Soil Survey, the subject property contains five soil classifications. The soils that cover the majority of the property include; Stryker Silt Clay Loam 0-3 percent slopes, Radnor Silt Clay Loam 0-3 percent slopes, and Muck and Peat. The other two soils located in small area on the southeast corner of the property are Whitefish Cobbly Silt Loam 0-7 percent slopes and Whitefish Cobbly Silt Loam 7-12 percent slopes. Stryker Silt Clay Loam 0-3 percent slopes is classified as Class IIIw-1. Class IIIw-1 is limited by seasonal excess water, moderately wet and drainage generally lacking soils. Radnor Silt Clay Loam slopes, and Muck and Peat are classified as Class Vw-1. Class Vw-1 is poorly drained soils, muck and peat. Whitefish Cobbly Silt Loam 0-7 percent slopes is classified as Vs-1 and Whitefish Cobbly Silt Loam 7-12 percent slopes is classified as VIe-1. Vs-1 is stony, well drained and nearly level or gently sloping soils. VIe-1 is stony coarse-textured, well drained, rolling to very steep soil. It is possible that future development on the property could cause a degradation of water quality because of shallow groundwater from poorly drained soils on a majority of the property.

Finding #5: The proposed map amendment is not specifically designed to secure safety from fire because it would allow for 2 additional houses in the

WUI, however, emergency services are available, the Whitefish Fire Department has no issue with the proposal, and the property is primarily an open field.

Finding #6: The proposed map amendment would not secure safety from other dangers because comments from the Environmental Health Department indicate that during groundwater monitoring five test holes failed in April 2014 due to shallow groundwater and the 1960 Soil Survey showing the property containing poorly drained soils, which means future development could create a public health and safety hazard.

2. Promote public health, public safety, and general welfare;

The subject property is located within the Whitefish Fire District and the nearest fire and emergency response center is located approximately 4.0 miles west of the property on Flathead Avenue. The Whitefish Rural Fire Department would respond in the event of a fire or medical emergency. Comments received from the Fire Department state, “The Whitefish Fire Department has no issues with the proposed zone change from AG-20 to SAG-10.” The Whitefish Fire Department would respond in the event of a fire or medical emergency, the Flathead County Sheriff’s Department provides police services and the North Valley Hospital is located approximately 4.8 road miles from the subject property.

Comments received from the Flathead City-County Health Department state, “This general area has seasonally high ground water in areas. Groundwater monitoring must be conducted during the spring of the year to determine the shallowest depth before the property can be subdivided. A four (4) foot separation must be maintained between the infiltrative trench of a wastewater disposal system and the shallowest groundwater.”

The applicant states, “Groundwater monitoring and on-site testing will be conducted to determine the best locations for on-site sanitary sewer drainfields, water wells and home foundation sites.”

Additional comments from the Environmental Health state, “Groundwater monitoring commenced on March 14, 2014. On April 3, 2014, personnel from this office conducted a site visit and conducted a groundwater monitoring verification check. Five (5) monitoring pipes were installed and all pipes failed during this check. Perched groundwater on this property appears to be between 0-18” inches which exceeds 48” required by Flathead County Sewage Treatment System Regulations and Montana Department of Environmental Quality. Therefore, at this time the Department cannot support development of the property with any dwelling or occupied structure which is required to be equipped with facilities for the sanitary disposal of sewage.”

As previously stated, the majority of the property contains Class IIIw-1 and Class Vw-1 soil. Class IIIw-1 is limited by seasonal excess water, moderately wet and drainage generally lacking soils and Class Vw-1 is poorly drained soils, muck and peat. It is possible that future development on the property

could create public health and safety hazards because of the shallow groundwater from poorly drained soils.

Finding #7: The impact on public health, public safety and general welfare would not be negative because the property is served by the Whitefish Fire Department which is located 4.0 miles southwest of the subject property, the Flathead County Sheriff and future development would be similar to uses already in the area.

Finding #8: The impact on public health, public safety and general welfare would be negative because there appears to be limitations on development of an on-site septic system on the subject property based on comments received from Environmental Health regarding shallow groundwater and the property containing poorly drained soils.

3. Facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements.

It is anticipated that actual future development would include subdivision review, at which time specific impacts to transportation, water and sewer services, would be considered and mitigated as determined to be appropriate. However, this zone change request is also an opportunity to assess if the property and public infrastructure could handle impacts associated with the proposed zone change.

According to the applicant, “The entire south perimeter of the subject property of ¼ mile is contiguous to East Edgewood Drive providing an excellent connector to Whitefish (1 mile), Columbia Falls (4.5 miles) and the intersection of US 2 with Montana Highway 40.” Primary access to the property is via Edgewood Drive and Aspen Drive. Edgewood Drive is a paved two lane County collector within a 60 foot easement and Aspen Drive is a private gravel road within a 30 foot wide easement.

The most recent traffic counts from the Road and Bridge Department for Edgewood Drive in September 2007 indicate 935 average daily trips (ADT) east of Haskill Basin Road. At full build-out two additional single family homes could be constructed on the subject property. Using standard trip generation of 10 ADT per single family dwelling, the proposed zone change has the potential to generate an additional 20 ADT. The proposed zone change could contribute to an increase of 2.1% ADT on Edgewood Drive.

Because Aspen Drive is a private road traffic counts are not available. Staff calculated the average daily traffic on Aspen Drive, using standard trip generation of 10 ADT per single family dwelling. Six tracts are located on Aspen Drive so the average daily traffic count would be approximately 60. The proposed zone change has the potential to increase traffic by 20 or 33.3% on Aspen Drive.

Comments received from the Flathead County Road and Bridge Department state, “At this point the County Road Department does not have any comments on this request.” It is anticipated that because traffic would only

increase by 2.1% on Edgewood Drive, the proposal would generate approximately 20 ADT, Aspen Drive has low traffic volumes and the Road and Bridge Department has no comment, the effects on transportation would be minimal.

Comments received from the Flathead City-County Health Department state, "This general area has seasonally high ground water in areas. Groundwater monitoring must be conducted during the spring of the year to determine the shallowest depth before the property can be subdivided. A four (4) foot separation must be maintained between the infiltrative trench of a wastewater disposal system and the shallowest groundwater."

The applicant has stated each of the future home sites will have individual wells and septic tanks. The applicant also says, "Groundwater monitoring and soil testing prior to platting will determine the size and location of individual sanitary systems and whether or not some version of an engineered system will be required on the subject property."

Comments from the Environmental Health state, "Groundwater monitoring commenced on March 14, 2014. On April 3, 2014, personnel from this office conducted a site visit and conducted a groundwater monitoring verification check. Five (5) monitoring pipes were installed and all pipes failed during this check. Perched groundwater on this property appears to be between 0-18" inches which exceeds 48" required by Flathead County Sewage Treatment System Regulations and Montana Department of Environmental Quality. Therefore, at this time the Department cannot support development of the property with any dwelling or occupied structure which is required to be equipped with facilities for the sanitary disposal of sewage."

As previously stated, the majority of the property contains Class IIIw-1 and Class Vw-1 soil. Class IIIw-1 is limited by seasonal excess water, moderately wet and drainage generally lacking soils and Class Vw-1 is poorly drained soils, muck and peat. There appears to be limitations regarding on-site sewage disposal systems on the subject property based on comments received from Environmental Health and 1960 Soil Survey. The applicant could choose to extend public sewer lines, located approximately 2 miles west of the property on Edgewood Drive.

The property of the proposed zone change is located within the Whitefish School District and Whitefish High School District. No comments were received from the Whitefish School District. Whitefish Elementary Schools have seen a decline of 11% in student enrollment over the last ten years and declined of 3% between 2012 and 2013. Whitefish High School has decreased 33% in student enrollment over the last ten years and declined 4% between 2012 and 2013. Additionally, Central School recently completed a major remodel and voters recently approved a bond to renovate the High School. It is anticipated that the school would have capacity should any growth occur as a result of the proposed zoning map amendment.

The zoning map amendment would change the current 20-acre minimum lot size to a smaller 10-acre minimum lot size, it is anticipated subsequent future development would require review and parkland would not be required at that time because the lots created would be greater than five gross acres in size. However, there are numerous parks, natural areas, and recreational opportunities within a short drive of the subject property.

Finding #9: The proposed zoning map amendment from AG-20 to SAG-10 would facilitate the adequate provision of transportation because Aspen Drive has low traffic volumes, Edgewood Drive is a paved County collector, traffic generated would be minimal, traffic would increase by 2.0% on Edgewood Drive, and the Road and Bridge Department has no comment.

Finding #10: The proposed zoning map amendment could hinder the adequate provision of water and sewer because there appears to be limitations regarding on-site sewage disposal systems on the subject property based on comments received from Environmental Health and 1960 Soil Survey.

Finding #11: The proposed zoning map amendment would not hinder the adequate provision of schools and parks because the proposal may generate school children which would likely not impact schools and there are numerous parks, natural areas, and recreational opportunities in the vicinity including state lands across Fern Lane.

iii. In evaluating the proposed map amendment, consideration shall be given to:

1. The reasonable provision of adequate light and air;

The proposed zoning map amendment has the potential to increase development density on the subject property. The bulk and dimensional requirements for the proposed zone are the similar to the bulk and dimensional requirements for the existing zoning with the lone exception being minimum lot size. The SAG-10 zoning allows for double the density of the existing AG-20 zoning.

According the applicant, “The average size of the sites will be approximately 12 to 14 acres with building envelopes dictated.” Any new structures on additional lots created as a result of this proposed zone change would be required to meet the bulk, dimensional, permitted lot coverage and minimum lot area requirements of the SAG-10 zoning classification. The proposed SAG-10 zoning sets a minimum lot area is 10 acres, the permitted lot coverage is 20% and the maximum building height of 35 feet for all structures. The setback requirements in the proposed SAG-10 require a minimum of 20 feet for the front, rear, side and side-corner yards for principal structures and 20 feet for the front and side-corner yards and 5 feet for the side and rear yards for accessory structures. These bulk and dimensional requirements within the SAG-10 designation have been established to ensure a reasonable provision of light and air.

Finding #12: The proposed zone change would provide adequate light and air to the subject property because future development would be required to meet

all bulk and dimensional requirements including setback, maximum height and lot coverage requirements within the proposed SAG-10 designation.

2. The effect on motorized and non-motorized transportation systems;

Access to the property is from Edgewood Drive to the south and Aspen Drive to the east. Edgewood Drive is a paved two lane County collector within a 60 foot easement and Aspen Drive is a private gravel road within a 30 foot wide easement.

Aspen Drive is a private road and traffic counts are not available. Therefore, staff calculated the average daily traffic on Aspen Drive, using standard trip generation of 10 ADT per single family dwelling. Six tracts are located on Aspen Drive so the average daily traffic is approximately 60. At full build-out two additional single family homes could be constructed on the subject property. Using standard trip generation of 10 ADT per single family dwelling, the proposed zone change has the potential to generate an additional 20 ADT. The proposed zone change has the potential to increase traffic by 33.3% on Aspen Drive.

The application states, "Travel to and from the future home-sites onto East Edgewood Drive will generate little or no impact to the current vehicular and bike traffic load." Recent traffic counts from the County Road and Bridge Department for Edgewood Drive from of September 2007 indicate 935 ADT east of Haskill Basin Road. The proposed zone change could contribute to an increase of 2.1% ADT on Edgewood Drive.

Comments received from the Flathead County Road and Bridge Department state, "At this point the County Road Department does not have any comments on this request." The anticipated effects on motorized transportation would be minimal because Aspen Drive has low traffic volumes, traffic would only increase by 2.1% on Edgewood Drive, the proposal would generate approximately 20 ADT and the Road and Bridge Department has no comment.

Currently there are no existing bike/pedestrian facilities located along Edgewood Drive, in the vicinity of the subject property. Edgewood Drive is identified in the Flathead County Trails Plan as part of a proposed connector, which may result in a bike/pedestrian trail along the Edgewood Drive. There appears to be adequate space for a future bicycle and pedestrian easement on the subject property.

Finding #13: It is anticipated that the effect on the motorized and non-motorized transportation systems would be minimal because Aspen Drive has low traffic volume, Edgewood Drive is a paved County collector, traffic generated would be minimal, traffic would increase by 2.0% on Edgewood Drive, the Road and Bridge Department has no comment and adequate space appears available for a future proposed bike/pedestrian easement.

3. Compatible urban growth in the vicinity of cities and towns (that at a minimum must include the areas around municipalities);

The property is not located directly adjacent to any city, but is located within the Whitefish City-County Master Plan. No comments have been received from the City of Whitefish regarding this proposal. Whitefish is located approximately 1.1 miles east from the subject property and directly adjacent to the 'inter-local agreement' between the City of Whitefish and Flathead County. The Whitefish City-County Growth Policy Future Land Use Map, adopted by the City of Whitefish in 2007, does not include the subject property.

Finding #14: Consideration has been given to the compatibility of the proposed amendment to the City of Whitefish's urban growth plan and it has been determined the map amendment is located beyond the eastern extent of Whitefish's urban growth, as shown on their own Whitefish Growth Policy Future Land Use Map, and therefore there is no plan with which to be compatible.

4. The character of the district(s) and its peculiar suitability for particular uses;

The permitted and conditional uses found under the proposed SAG-10 zoning are similar to those listed under the existing AG-20 zone. 'Fish hatchery' is the only use permitted in the AG-20 designation that is not allowed within SAG-10. Two uses that are allowed with a conditional use permit in SAG-10 are not allowed in the AG-20, they include:

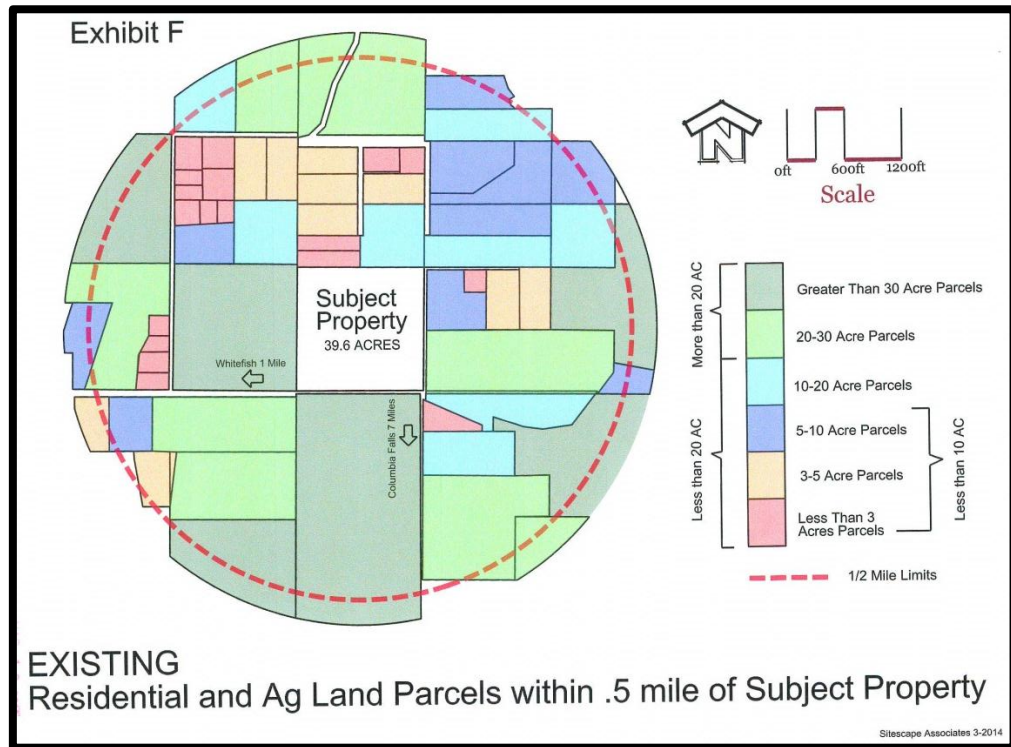
- *'Community residential facility.'*
- *'Manufactured home park.'*

And five uses allowed with a conditional use permit in AG-20 that are not allowed in SAG-10, they include:

- *'Animal Farm.'*
- *'Communication/tower mast.'*
- *'Feed and seed processing and cleaning.'*
- *'Feed lot; cattle, swine, poultry.'*
- *'Radio and television broadcast studio.'*

The application states, "The proposed SAG-10 amendment will not result in a markedly different land use density compared to the existing AG-20 classification. Quality rural residential development can and will result from this proposal while eliminating some of the pressure to purchase and build in more remote timbered and mountainous locations that are un-zoned and lack utility extension and adequate roads." The proposed zoning map amendment would allow for the future division of the subject properties, with the potential to create lots with a minimum size of 10 acres. The proposed lot sizes would be consistent with the character of the immediate vicinity of the subject property. The properties directly to the west are zoned SAG-10 with a minimum lot size of 10 acres.

Figure 7: Residential and AG land parcels within .5 mile of subject property



The character of the area surrounding the property is rural residential, agricultural with forested land to the northeast. A majority of the properties to the north, and east are heavily forested and do not appear to be used for agricultural purposes. Adjacent parcels to the south and west tend to be open and appear to be utilized for agriculture. Suburban agricultural lot sizes to the northeast average 10.1 acres and agricultural lots generally range from 0.5 to 178.5 acres with an average lot size of 15.5 acres (see Figure 7 above).

Finding #15: The character of the district appears suitable for the proposed zoning map amendment because the uses permitted and conditionally permitted within the proposed SAG-10 zoning are similar to what is currently allowed and existing in the neighboring SAG-10 zoning, what currently exists in the AG-20 and the minimum lot size allowed is similar to existing lots in the area.

5. Conserving the value of buildings and encouraging the most appropriate use of land throughout the jurisdictional area.

A majority of the properties to the north, and east are heavily forested and do not appear to be used for agricultural purposes. Adjacent parcels to the south and west tend to be open and appear to be utilized for agriculture. Many of the buildings are residential, with accessory buildings typical of agricultural zones.

The uses allowed within the SAG-10 zone are similar to what is permitted and

what currently exists in the surrounding AG-20 and the designation would allow for the same uses as what currently exists in the adjacent SAG-10 zone to the northeast. The applicant states, “The proposed map amendment will promote rural separation of structures while protecting critical resources present on the property such as Haskill Creek, Walker Creek and the wooded area.”

There appears to be limitations regarding on-site sewage disposal systems on the subject property based on comments received from Environmental Health and 1960 Soil Survey. Comments from the Environmental Health state, “Groundwater monitoring commenced on March 14, 2014. On April 3, 2014, personnel from this office conducted a site visit and conducted a groundwater monitoring verification check. Five (5) monitoring pipes were installed and all pipes failed during this check. Perched groundwater on this property appears to be between 0-18” inches which exceeds 48” required by Flathead County Sewage Treatment System Regulations and Montana Department of Environmental Quality. Therefore, at this time the Department cannot support development of the property with any dwelling or occupied structure which is required to be equipped with facilities for the sanitary disposal of sewage.”

As previously stated, the majority of the property contains Class IIIw-1 and Class Vw-1 soil. Class IIIw-1 is limited by seasonal excess water, moderately wet and drainage generally lacking soils and Class Vw-1 is poorly drained soils, muck and peat. There appears to be limitations regarding on-site sewage disposal systems on the subject property based on comments received from Environmental Health and 1960 Soil Survey. Allowing the requested zoning amendment may not encourage the most appropriate use of the land throughout the jurisdictional area because the property has shallow groundwater and future development could lead to public health and public safety concerns.

Finding #16: This zoning map amendment appears to not encourage the most appropriate use of land because SAG-10 could allow for the development of additional dwellings in an area known to have shallow groundwater and soils that may not allow for the placement of on-site sewer systems.

iv. Whether the proposed map amendment will make the zoning regulations, as nearly as possible, compatible with the zoning ordinances of nearby municipalities.

The downtown area of Whitefish is located over 2.0 miles from subject property. The City of Whitefish’s city limits are located approximately 1.1 miles to the north and the Whitefish Growth Policy Future Land Use Map area, adopted by the City of Whitefish in 2007 is located adjacent to the subject property. The property is not included on the City of Whitefish’s future land use map. No comments have been received from the City of Whitefish regarding this proposal.

Finding #17: Consideration has been given to the City of Whitefish’s growth plan and zoning ordinance, however it is not possible for the proposed zoning map amendment to be compatible with zoning ordinance of Whitefish because it is

outside the city limits and outside the plan area, therefore no documents exist that would provide guidance on compatibility.

V. SUMMARY OF FINDINGS

1. The proposed zoning map amendment does not appear to constitute spot zoning because the adjacent properties to the northeast are similarly zoned SAG-10 and this proposed zone change would allow for the same uses that are currently permitted and currently exist in the adjacent SAG-10.
2. The proposed zoning map amendment does not comply with the Flathead County Growth Policy applicable goals, policies and text because hydric soils exist on the subject property, and comments from the Environmental Health Department indicate that during groundwater monitoring five test holes failed in April 2014 due to shallow groundwater, which means future development on the property may not be possible and therefore this location may not be appropriate for higher density.
3. The proposed zoning map amendment from AG-20 to SAG-10 does not appear to comply with the Whitefish City-County Master Plan Map Year 2020 because the proposed zoning classification is not compatible with the future land use map designation of 'Limited Rural Residential' because the proposal would allow would allow for a minimum lot size of 10 acres.
4. The proposed zoning map amendment does not appear to comply with the overall goals and policies of the Master Plan because it would allow for growth in an area designated as 'Sensitive Area,' the subject property has riparian area, is partially in the floodplain, hydric soils exist on the subject property, and comments from the Environmental Health Department indicate that during groundwater monitoring five test holes failed in April 2014 due to shallow groundwater, which means future development on the property could create a public health and safety hazard and therefore this location may not be appropriate for higher density.
5. The proposed map amendment is not specifically designed to secure safety from fire because it would allow for 2 additional houses in the WUI, however, emergency services are available, the Whitefish Fire Department has no issue with the proposal, and the property is primarily an open field.
6. The proposed map amendment would not secure safety from other dangers because comments from the Environmental Health Department indicate that during groundwater monitoring five test holes failed in April 2014 due to shallow groundwater and the 1960 Soil Survey showing the property containing poorly drained soils, which means future development could create a public health and safety hazard.
7. The impact on public health, public safety and general welfare would not be negative because the property is served by the Whitefish Fire Department which is located 4.0 miles southwest of the subject property, the Flathead County Sheriff and future development would be similar to uses already in the area.
8. The impact on public health, public safety and general welfare would be negative because there appears to be limitations on development of an on-site septic system on the subject property based on comments received from Environmental Health regarding shallow groundwater and the property containing poorly drained soils.

9. The proposed zoning map amendment from AG-20 to SAG-10 would facilitate the adequate provision of transportation because Aspen Drive has low traffic volumes, Edgewood Drive is a paved County collector, traffic generated would be minimal, traffic would increase by 2.0% on Edgewood Drive, and the Road and Bridge Department has no comment.
10. The proposed zoning map amendment could hinder the adequate provision of water and sewer because there appears to be limitations regarding on-site sewage disposal systems on the subject property based on comments received from Environmental Health and 1960 Soil Survey.
11. The proposed zoning map amendment would not hinder the adequate provision of schools and parks because the proposal may generate school children which would likely not impact schools and there are numerous parks, natural areas, and recreational opportunities in the vicinity including state lands across Fern Lane.
12. The proposed zone change would provide adequate light and air to the subject property because future development would be required to meet all bulk and dimensional requirements including setback, maximum height and lot coverage requirements within the proposed SAG-10 designation.
13. It is anticipated that the effect on the motorized and non-motorized transportation systems would be minimal because Aspen Drive has low traffic volume, Edgewood Drive is a paved County collector, traffic generated would be minimal, traffic would increase by 2.0% on Edgewood Drive, the Road and Bridge Department has no comment and adequate space appears available for a future proposed bike/pedestrian easement.
14. Consideration has been given to the compatibility of the proposed amendment to the City of Whitefish's urban growth plan and it has been determined the map amendment is located beyond the eastern extent of Whitefish's urban growth, as shown on their own Whitefish Growth Policy Future Land Use Map, and therefore there is no plan with which to be compatible.
15. The character of the district appears suitable for the proposed zoning map amendment because the uses permitted and conditionally permitted within the proposed SAG-10 zoning are similar to what is currently allowed and existing in the neighboring SAG-10 zoning, what currently exists in the AG-20 and the minimum lot size allowed is similar to existing lots in the area.
16. This zoning map amendment appears to not encourage the most appropriate use of land because SAG-10 could allow for the development of additional dwellings in an area known to have shallow groundwater and soils that may not allow for the placement of on-site sewer systems.
17. Consideration has been given to the City of Whitefish's growth plan and zoning ordinance, however it is not possible for the proposed zoning map amendment to be compatible with zoning ordinance of Whitefish because it is outside the city limits and outside the plan area, therefore no documents exist that would provide guidance on compatibility.

VI. CONCLUSION

Per Section 2.08.020(4) of the Flathead County Zoning Regulations (FCZR), a review and evaluation by the staff of the Planning Board comparing the proposed zoning map amendment to the criteria for evaluation of amendment requests found in Section 2.08.040 FCZR has found the proposal to generally comply with most the review criteria, based upon the draft Findings of Fact presented above. Section 2.08.040 does not require compliance with all criteria for evaluation, only that the Planning Board and County Commissioners should be guided by the criteria.

Planner: EKM